bring forward some legislation to control PILs, because he has been making statements off and on publicly that he would control the judiciary on PIL.

SHRI RAMAKANT D.KHALAP: The hon. Member is not correctly describing to the House what I have been saying. You will recall that there is a debate going on in the country...

श्री त्रिलोकी नाथ चतुर्वेदी : चिराग तले अंधेरा । गोओ, गोआ कहते हैं उनको पता नहीं हैं । गोआ के ये भी हैं लेकिन उनको पता नहीं हैं । (**व्यवधान**)

श्री रमाकान्त डी. खपल : वह तो दिल्ली में बैठे हैं । सुनते नहीं हैं कि मैं गोआ में क्या बोलता हूं ।

SHRI JOHN F. FERNANDES: He is a Minister of the Government of India, Madam. He has nothing to do with the state here.

SHRI SURINDER KUMAR SINGLA: Both have nothing to do with the State!

SHRI RAMAKANT D. KHALAP: So, what we have been saying is that so far as pending cases are concerned, a concerted effort is required. The Law Ministers' Conference also considered this issue in detail. Certain specific decisions have been arrived at. One is to strengthen the Alternate Dispute Settlement system. We already have arbitration and consultation laws in force now. The provisions of these laws need to be utilised at all levels. Secondly, what has been decided is that we must amend the Civil Procedure Code because it is found that the procedure itself is a bottleneck and it creates bottlenecks because of the web of various steps needed to be taken at various stages. It has led to congestion in courts. So, once the proposed amendments to the Civil Procedure Code are enacted and once they become law, I am sure it will help us in reducing the heavy backlog. I wouldn't ascribe any credence to this statement that PIL is leading to congestion in courts or it is leading to delay in disposal of cases. That is not a correct statement. PlL is taken up only in the Supreme Court and the High Courts. In the Supreme Court, the number of pending cases is only between twenty and thirty thousand. In the Supreme Court, no case remains pending for more than one to two years. The disposal is very quick now. About the High Courts, of course, it can be said to some extent that the number of pending cases is quite large. But then, putting curbs on PIL is no answer. What was said was that some people have made it a habit to go to the court on any issue and this, according to some people, affects disposal of normal cases which are there before the courts. What was suggested was that parameters for admission of cases be laid down.

What was suggested was that the exact principles on which a public interest litigation would be accepted by the court and disposed of would be laid down as a sort of guidance for the general public so that the general public can know which are the grounds and which are the issues on which they can come to the court in a public interest litigation. It can help everyone. This can be done either by legislation or it can be done by the courts themselves. What 1 have been saying is that if the courts lay it down, it would be much better. I think a number of judgements are available today which lay down guidelines in respect to public interest litigation. If the Supreme Court lays down these guidelines, it will help everybody. That is all.

SHRI SURINDER KUMAR SINGLA: Madam, I have a specific question.

SHRI DEPUTY CHAIRMAN: Just one minute. I think a Bill is going to come to the House. We have already taken 15 minutes on this question. If everybody agrees...

SHRI SURINDER KUMAR SINGLA : Madam. I have a specific question.

THE DEPUTY CHAIRMAN: No, Please. If I allow you, then I will have to allow all the 10—20 people. Now Question No. 83.

Pending Cases of Evasion of Central Excise Duty

*83. SHRI S. MUTHU MANI: Will the Minister of FINANCE be pleased to state:

(a) whether it is a fact that 46,770 cases involving Rs. 12730.62 crores of Central excise duty evasion were pending with different authorities as on 31st March, 1997;

(b) if so, the action taken by Government to decide the said pending cases; and

(c) the total number of such cases pending with different authorities as on date and the amount involved and also action taken by Government as on date?

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SATPAL MAHARAJ): (a) to (c) A statement is laid on the Table of the House.

Statement

(a) As on 31.3.97, 60,243 cases involving Central Excise duty of Rs. 7389.38 Crores were pending with different authorities including Appellate Tribunal and courts, (excluding Commissionerates of Central Excise Bolpur, Bombay_I, Calcutta-II and Patna)

(b) and (c) As on 1.7.97, 71,896 cases involving Central Excise duty of Rs. 9951.28 Crores were pending with different authorities including Appellate Tribunal and courts (excluding Commissionerates of Central Excise Bolpur, Bombay-I, Ca!cutta-I & II, Patna, Shillong, Surat, Chandigarh, Coimbatore, Goa, Jaipur, Madras, Meerut and Rajkot.)

Various measures taken to expedite finalisation of pending cases with various authorities and in courts include:

(i) Bunching of cases issue-wise in Supreme Court and various High Courts and other authorities.

(ii) Moving the courts for vacation of stay orders wherever granted.

(iii) The Supreme Court has decided major issues of valuation and unjust enrichment. Consequently, pending issues on these subjects can be decided expeditioulsy.

(iv) Delegation of powers of adjudication at the level of Addl/Dy. Commissioners and Assistant Commissioners.

(v) Creation of compact and smaller Commissionerates for-effective supervision and speedy adjudication.

(vi) Exclusive Commissioners have been posted for speedy adjudications of Anti-Evasion cases in Delhi, Mumbai etc.

SHRI S. MUTHU MANI: Madam Deputy Chairperson, over 60 per cent of Central Excise Duty evasion detected in the country is on account of unreported protection. The remaining 40 per cent is due to under invoicing and various other law circumventing methods. So, my first supplementary question is: What action has been taken by the Government to prevent Excise Duty evasion by above methods?

SHRI SATPAL MAHARAJ: Respected Madam, the increase in pendency on 1.7.97 as compared to 31.3.97 is on account of more detections. These increased detections are leading us to greater number of show-cause notices. This is also involving higher amounts of tax-evasion. We are also taking several measures for expeditious disposal of cases. I have already told about such measures in my reply to his query.

SHRI S. MUTHU MANI: Madam, my question has not been replied to by the hon. Minister. Anyhow, I would lik to put my second supplementary. According to the Report of the Comptroller and Auditor General of India, the Government lost revenue to the tune of Rs. 2,903.21 crores due to under assessment of Excise Duty during the financial year 1995-96. What action has been taken to recover such revenue in such cases where under assessment of Excise Duty has been detected?

SHRI SATPAL MAHARAJ:Madam, we have been monitoring such cases. We are also briefing senior law officers, at the level of Solicitor General and Additional Solicitor General and other counsel in important cases involving intricate questions of law and high revenue implications. We have also taken steps for enhancement of powers of a single—member CEGAT bench to Rs. 10 lakhs and removal of distinction between special benches and ordinary benches in CEGAT so that classification and valuation cases may be taken up by all regional benches.

SHRI GURUDAS DAS GUPTA: Madam, the issue of Excise Duty has become extremely serious and it has to be viewed in the background of our constant Budget deficit. We would like to find out the areas where we can increase our national revenue. Therefore, the

question arises that the law enforcing agencies who are looking for tax-evasion, Central tax-evasion, Income-tax evasion and evasion of other taxes, should be given full freedom and protection so that they can do their duty in the way they should have done. But, there have been complaints. It is for the hon. Minister to dispel that apprehension. There have been complaints why these investigating agencies have been looking for evasion, particularly connected with people having high connections, whether in politics or in society or with newspapers, that agencies are not being allowed to work properly.

There has been a complaint that the Intelligence Department has been asked to look into the work of a particular agency looking after tax evasion. Against this background, I seek a clarification from the hon. Minister, I seek a reply from the hon. Minister whether it is proper that while a particular investigating agency is looking after tax evasion of a particular nature, you let loose another section of the Ministry of Finance or of the Government, particularly the .Intelligence Branch, to monitor the work of that enforcement agency.

श्री सतपाल महाराज : सम्मानित महोदया, जो विचार अभी सम्मानित सदस्य ने रखे हैं वे बड़े महत्वपूर्ण हैं और किसी भी रूप में जो इन्वेस्टीगेटिंग एजेंसी हैं उसे पूरा-पूरा अधिकार मिलना चाहिए किसी चीज को छान-बीन करने का और जो बातें उन्होंने कही हैं अगर वह हमारे संज्ञान में लाएं तो विशेष रूप से हम लोग उस पर विचार कर सकते हैं और जो बाते उन्होंने कही हैं जैसे न्यूज पेपर्ज एजेंसीज या और हाई लेवल पोलिटीकल प्रेशर के बारे में जो उन्होंन बात कही हैं तो निश्चित रूप में कोई भी जांच एजेंसी उनके आगे रुकेगी और झुकेगी नहीं और हम निक्षपक्ष रूप से जांच हो होने देंगे।

SHRI GURUDAS DAS GUPTA: Madam, the hon. Minister wants me to give an example. There has been a recent case and everybody knows it. ...*(Interruptions)*... The Intelligence Department people had been sent to a particular enforcement agency of the Government which was looking into tax evasion. ...*(Interruputions)*... Everybody knows it. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: He wants you to give some specific examples. ...*(Interruptions)*... Did you give any specific example? ...*(Interruptions)*. ...

SHRI GURUDAS DAS GUPTA: Madam, everybody knows about the Ashok Jain Income-tax evasion case. ...*(Interruptions)*... Everybody knows about the foreign exchange regulation case. ...*(Interruptions)*...

SHRI SOM PAL: Madam, the cases are on the file. ...*(Interruptions)*.... They have to fix the responsibility and accountability. ...*(Interruptions)*... This is unbecoming of a Minister.... *(Interruptions)*....

THE DEPUTY CHAIRMAN: You are only the next man to put a question… (Interruptions)...

SHRI SOM PAL: Madam, I will mention a specific case. ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: Madam, what I am saying is that the Intelligence Bureau ...*(Interruptions)*....

THE DEPUTY CHAIRMAN: Let him answer. ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: They have been looking into the behaviour of the Foreign Exchange Regulatory Authority... *(Interruptions)*... I would like to know whether anything has been done in the Ashok Jain case.

श्री सतपाल महाराज : सम्मानित महोदया, इस की सूचना मैं सम्मानित सदस्य को दें दूंगा। इस समय वर्तमान में मेरे पास सूचना नहीं हैं।

SHRI SOM PAL: Madam, I will mention a specific case which belongs to the year 1986 when several raids were conducted on ITC. There are confessional statements running into 64 pages of the seniormost executives of the company giving all the details. In spite of all these things, investigations were allowed to be carried on for more than a dozen years. You want to know specific cases. The evasion is direct evasion in this case. The printed price on the cartons of cigarettes was lower. The officers have confessed to it. In spite of this, the investigations were given to one of the Government agencies. After a gap of three

years, the investigations were changed to the other. Even till date, they have not recovered the money. ...*(Interruptions)* ... Mr. Minister, this responsibility of investigation cannot be given to others. ...*(Interruptions)*... You have got enough arms, you have got enough powers and officers have more than adequate powers which are either unutilised or rather misutilised. ... *(Interruptions)*...

THE DEPUTY CHAIRMAN: What is your question? ...*(Interruptions)*

SHRI SOM PAL: Madam, the question is regarding the ITC case. ...*(Interruptions)*... A time-frame should be there. There should be responsibility and accountability fixed at every stage of investigation, recovery and issuance of recovery certificate. ...*(Interruptions)*... Their properties should be attached as they are doing in the case of small amounts given to the poor farmers. In my village, a farmer could not pay Rs. 72 of the remaining amount which was given to him, so he was arrested by the police ...*(Interruptions)*...

उपसभापति : वह तो खुद गांव से आते हैं, वह सही बतायेंगे ।

SHRI SOM PAL: Madam, this is a discriminatory treatment. You should come out with a specific answer, Mr. Minister.

SHRI SATPAL MAHARAJ: Madam, with regard to the ITC case, 21 show-cause notices involving a total amount of Rs. 1,176 crores have been issued to M/s. ITC. Ten show-cause notices have been finalised and the amount involved is Rs. 799 crores. The party has deposited Rs. 350 crores. These cases are pending in the Customs and Excise Appellate Tribunal. The remaining cases are at various stages of adjudication.

SHRI SOM PAL; This is a description of the status. But, where is the commitment that they are resolved to recover the money? ...(Interruptions)...

SHRI SATPAL MAHARAJ: Definitely, we will ...*(Interruptions)* ...*(Interruptions)*

SHRI SOM PAL: I am asking about fixation of responsibility at every stage of adjudication and recovery.

This answer is known. This status is known to every one. We want a firm commitment as to when the amount would be recovered. Madam, the tribunal is also working on some mandate, Whether they are carrying out the mandate or not is the question.

THE DEPUTY CHAIRMAN: Mr. Minister, when are you going to get this money? If it is Government money, how much interest is being lost by the Government? *(Interruptions)* ... What is your answer to this?

SHRI SATPAL MAHARAJ: Madam, there is a procedure. And, through the procedure, we will definitely get the money.

THE DEPUTY CHAIRMAN: What is the procedure? That is what he is asking.

SHRI SATPAL MAHARAJ: I have just said that the balance cases are at various stages of adjudication. We will get the money, do not worry.

SHRI SOM **PAL:** But, you are not recovering even the interest. Madam, let me make it plain. The Total evasion is around Rs. 2,000 crores. Even if you go by the interest rate which a bank gives on deposit, it comes to Rs. 240 crores per year and in ten years they have recovered only Rs. 300 crores. Is it a great achieyment? This is not the reply I expected from the hon. Minister. I am on a specific thing. I am not making a general statement. If to a specific charge the Government fails to respond in a specific manner, it is a pity. The Parliament is taken for granted,

उपसभापति : अच्छा बोलने तो दीजिए । जवाब तो देने दीजिए ।

श्री सतपाल महाराज : जसे माननीय सदस्य पूछ रहे हैं, मैं उस की सूचना उन्हें दे दूंगा।

SHRI SOM PAL: Your files are there. I am not saying it. You know it. You know my charges and you are deflecting it on the Members of Parliament that we should come out with a specific information. Now, I am confronting the Government with this specific information.

उपसभापति : आप उन को जवाब तो देने दीजिए ।

इन्होंने तो अभी ज्वाइन किया हैं । इन को 10 साल का थोड़े ही मालूम हैं ।

SHRI SOM PAL: Madam, the Government is a continous entity.

This protection is too much.

SHRI SATPAL MAHARAJ: This will be decided by a tribunal.

THE DEPUTY CHAIRMAN: Is it under a tribunal? Is there any time-limit or time-frame for tribunals that it should dispose of the cases within a specific period?

SHRI SOM PAL: Madam, at least, you give him a direction to come out with reasons for the dealy... *(Interruptions)...*

श्री सतपाल महाराज : मैं सम्मानित सदस्य को सूचना दे दूंगा । ...(**व्यवधान**)...

उपसभापति : मैं आप की तरफ से बोल रही हूं । आप इतना गुस्सा मत कीजिए ।

Is there any time-limit? ...*(Interruptions)...*

SHRI GURUDAS DAS GUPTA: Madam, you direct about these two cases — Mr. Som Pal has raised one and I have raised one. Kindly give him a direction.

THE DEPUTY CHAIRMAN: I do not give direction I am only trying to get a proper answer because the House has a right to know... *(Interruptions)...* Just one minute, Mitraji ...*(Interrutions)...* There is no other forum where a Member of Parliament can get information from the Government. Question Hour is the only hour where they can get. Right! And the Members are asking. Mr. Minister, you said that it is before a tribunal. Is there any time-frame for the tribunal that it should dispose of within two years or one year or six month or is there no time-limit?

SHRI SATPAL MAHARAJ: There is a time-limit.

THE DEPUTY CHAIRMAN: What is the time-limit?

SHRI SATPAL MAHARAJ: Madam, it is...

THE DEPUTY CHAIRMAN: Okay, you get the answer. By that time I can ask Mr. Ashok Mitra to ask his question.

SHRI SOM PAL: Madam, in this Rs. 12,000/ crores are involved. I want a short-duration discussion on this... *(Interruptions)...*

SHRI GURUDAS DAS GUPTA: Madam, on these two issues we want a discussion... *(Interruptions)...*

THE DEPUTY CHAIRMAN: Okay. All right. Let me get the answer. We cannot waste the time. Mr. Minister, you find out what the time-limit is.

SHRI ASHOK MITRA: Madam, a simple suggestion to the Government. We know that there are hundreds of such cases where parties are favoured by A, B or C and are allowed not to pay their taxes and we are helpless. Just we are helpless spectators about that. I am on a . very pointed question. If you are unable to collect these taxes, would you kindly ensure that none of the nationalised banks offer any further credit to any of these companies. Would you kindly consider this?

उपसभापति : यह पूछा हैं कि जो टैक्स इवेडर कंपनीज हैं, जब तक उन के केसेस डिसाइड नहीं हो जाते हैं, नेशनलाइज्ड बैक्स से उन को फर्दर असिस्टेंस नहीं देने के बारे मे क्या आप इंस्ट्रक्शंस देंगे ?,

This is a specific question.

श्री सतपाल महाराज : मैडम, इसके बारे में सूचना इस ससमय मेरे पास उपलब्ध नहीं हैं । मैं सम्मानित सदस्य को यह सूचना बाद में उपलब्ध करा दूंगा ।

उपसभापति : अच्छा, वह ट्रिबुनल का आ गया ? उसके बारे में बता दें ।

श्री सुदंर सिंह भंडारी : मैडम, टाइम लिमिट तय ही नहीं हैं तो क्या बतायेंगे ।

श्री सतपाल महाराज : मैडम, ट्रिबुनल जो हैं इंडिपेंडेंट बोडी हैं ।

The Tribunal is an independent judicial body.

THE DEPUTY CHAIRMAN: Is it appointed by the Court or by the Finance Ministry?

श्री सतपाल महाराज : मैंडम, जो सम्मानित सदस्य ने सूचना मांगी हैं, वह सूचना इस समय मेरे पास उपलब्ध

नहीं हैं बाद में मैं यह सूचना उन्हें उपलब्ध करा दूंगा।

उपसभापति : नहीं, आप हाउस को दीजिए, उनको पर्सनल क्यों देंगे।

Other Members also want to know. I suppose so.

SHRI V.P. DURAISAMY: Madam, I understand that there are major disputes regarding Central excise duty in the matter of evaluation. If so, what steps does the Government propose to take in order to avoid such disputes and to promote the collection of excise duty?

उपसभापति : यह तो जवाब दे दिया हैं।

I think, it is the same question.

SHRI SATPAL MAHARAJ: We are taking steps for bunching of cases issue-wise and forwarding the list to the Agency Section of the Ministry of Law for early hearing. Then, the second point is regarding bunching of cases. I have given reply in this regard. Bunching of cases has been dealt with in the earlier cases of the Supreme Court and the list has been forwarded to the Central Agency Section for moving the Supreme Court for one-time disposal. The Commissioner and the Chief Commissioner have been requested to meet the Chief Justices of various High Courts and the members of the CEGAT with an intention to impress upon them the need for ewly finalisation of pending cases. Periodical monitoring and coordination of court cases and holding of meetings with officials of the Ministry of Law, including Central Agency Section, are also done. Then, there is a briefing of senior law officers at the level of Solicitor General and Additional Solicitor General and other counsel in important cases involving intricate questions of law and high revenue implications. The power of a single member CEGAT bench has been enhanced to Rs. 10 crores. We are trying to remove the distinction between specific benches and ordinary benches in CEGAT so that clasification and evaluation of cases can be taken up by all regional benches.

SHRI S. PETER ALPHONSE: Madam, I would like to know from the hon. Minister whether the Government has got any agency to assess the value of computer software. It is used as a vital instrument for siphoning off or for evading excise duty because the department has no technical staff to assess the value of computer software. They arc ovcrinvoicing. For example, there is a plastic box. They value it at Rs. 3 crores. Then they export it, and in turn they import other materials which are liable for tax. So, because of this method of exporting computer software, a large number of cases arc pending before the tribunal because the department has no technical staff to assess the value of computer software. I would like to know whether the Ministry is aware of it. How does the department propose to take prompt action in this regard?

SHRI SATPAL MAHARAJ: Respected Madam, this is a very serious problem because the computer software packages are very small. But, we definitely have a system of self-assessment. We take the assistance of the public-sector and the other electronic companies to assess the value.

SHRI S. PETER ALPHONSE: Madam, the Minister has not answered my question. My question is this. When they export they say that it is an Intellectual Property Right. They over-invoice the product. They send a plastic box and assess its value at Rs. 3 crores. Then, they, in turn, import other machinary for diversion. So, what action does the department take to assess the value? Have you got the technical staff for this purpose? So far as I know, you have no such staff and evaluation is entirely at the mercy of the officers who are not at all qualified or educated in this particular branch of science. Is the department aware of this problem? If so, what action is proposed to be taken?

THE DEPUTY CHAIRMAN: As technology improves, I think, the functioning of every Ministry has to be upgraded accordingly. Otherwrse. there is disparity between what is being imported and what you have to assess. You have no way of assessing it. It is a very technical question. Have you any answer'

SHRI SATPAL MAHARAJ: I have taken note of the suggestion of the hon. Member. We will definitely look into this area. At the

. moment, we are taking the help of public sector electronic companies to assess the value.

SHRI JAYANT KUMAR MALHOUTRA: Madam, a major chunk of this Rs. 12,700 crores which is due on excise account is because of non-payment by the cigarette companies. Because of the long time taken to collect the money, two of these companies have gone to the BIFR. The question is: how are you going to recover these large amounts from these two companies which are now under the BIFR?

SHRI SATPAL MAHARAJ: Respected Madam, cases relating to cigarette companies are the ones where the maximum revenue is involved. The amount locked up in these cases, pending with the Commissioner, Delhi, between 1983 and 1997, is of the order of Rs. 718.98 crores. The information sought for by the Member would be given to him.

SHRI JAYANT KUMAR MALHOUTRA: Madam, my question was different. There are two companies, major tobacco companies, which are now under the BIFR. They are sick. They have gone sick. The amount is due for the last ten or fifteen years. Large amounts are held by these companies. They haven't paid. How are you going to recover these amounts? These amounts are due from 1980 onwards. They have gone to the BIFR; may be, it is intentional. The question is: how are you going to recover?

SHRI SATPAL MAHARAJ: Madam, I do not have 'the information. I will supply the information to the hon. Member.

SHRI SOM PAL: Information has been given by the hon. Member. You have to react.

SHRI SUNDER SINGH BHANDARI: Two companies have been specifically mentioned.

THE DEPUTY CHAIRMAN: Mr. Minister, I think it is better that you send the answers, if you do not have- the information now. When you send the answers, please send a copy to me also. But please give a tme-frame to the House. It cannot be like the cases going on and on before the tribunals or the courts. We are working in a certain time-frame. The House would be adjourning on 14th August. Therefore, you please send your answers before that date so that Members would know; otherwise, by the time the next Session comes, they would forget what they had asked.

SHRI SATPAL MAHARAJ: Madam, two companies, GTC and NTC, have gone to the BIFR. We have to follow the procedure set by the BIFR. *(Interruptions)*

SHRI NILOTPAL BASU: Madam, I think the answers could be sent by post. Many of the questions remain unanswered.

THE DEPUTY CHAIRMAN; We cannot do that. Mr. Minister, I would like you to send the answers, specific answers, to the Chair, to the Secretariat, as well as to the Members. The idea is to get answers to the questions. That is all. Nothing else. What else can Members do?

Adverse Ruling of DSP, WTO Against India

*84. SHRI K.R. MALKANI: Will the Minister of COMMERCE be pleased to state:

(a) whether it is a fact that the Disputes Settlement Panel of World Trade Organisation has ruled against India on the subject of Patent Law as published in The Hindustan Times, dated the 4th July, 1997;

(b) whether it is a fact that India did not block the U.S. request for establishment of a DSP even though it had an opportunity to do so; and

(c) how Government propose to meet this situation without effecting the necessary amendment in our Patent Law?

THE MINISTER OF STATE OF THE MINISTRY OF COMMERCE (SHRI BOLLA BULI RAMAIAH): (a) Under the dispute settlement provisions of the World Trade Organisation (WTO), a Panel is currently considering a complaint by the United States of America to the effect that India has not fulfilled its obligations under Article 70.8 and 70.9 of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs Agreement) which envisage that a WTO Member who does not provide patents protection for pharmaceutical and agricultural chemical products, as on the date of entry into